

P10438.3 HIGHLIGHTS OF 1989 REGIONAL TREATMENT CENTER LEGISLATION

In 1988, the Department of Human Services established a Regional Treatment Center (RTC) Negotiating Committee to look at issues of the future role and function of the RTCs. The Committee had broad representation, including client advocates, parents, RTC employees, and state, county, and community representatives. Based on a proposal developed by the Committee, the 1989 legislature passed the RTC bill. The bill contains the following important provisions for people with developmental disabilities:

State operated community-based services (SOCS) will be developed over the next ten years. (SOCS include community group homes, foster care, supportive living services, day training and habilitation programs, and respite care arrangements.) The development will include 95 group homes in conjunction with appropriate day training and habilitation services. with a capacity to serve 570 people from the RTCs. Staff for the SOCS will be current RTC employees. Privately operated programs will also be developed over the next 10 years, with a capacity to serve more than 600 people from the RTCs.

In the first phase of SOCS development - 1990 and 1991 - the Department plans to establish 24 group homes and 14 day programs as follows:

	GROUP HOMES	DAY PROGRAMS
BRAINERD RTC	2	2
CAMBRIDGE RTC	4	2
FARIBAULT RTC	10	6
FERGUS FALLS RTC	2	1
MOOSE LAKE RTC	4	2
WILLMAR RTC	2	1

In determining the location of the SOCS, the needs of the individual will be paramount; consideration will also be given to personal preferences of families, location of support services, appropriate grouping of persons, availability of qualified staff, need for service in the region and commuting distance of staff.

The Department will continue to provide services to some people with mental retardation on existing RTC campuses. By 1999, it is planned that the RTC capacity will be:

BRAINERD RTC	57
CAMBRIDGE RTC	12
FARIBAULT RTC	80
FERGUS FALLS RTC	35
MOOSE LAKE RTC	12
ST. PETER RTC	30
WILLMAR RTC	12

Other RTC services will be restructured to include training and technical services to community programs, respite care and crisis services. Crisis services designed to help people live in community settings will be developed at each RTC. In addition, a crisis capacity to serve 16 people will be developed in the metropolitan area.

A screening team, established by the county agency, will continue to evaluate the need for services for each person at the RTC. When the need for community placement is identified, detailed discharge procedures will be followed. The procedures allow for the active participation of family members and guardians on the team. The majority of the team must agree to the plans for discharge from the RTC. Family members have the right to appeal discharge decisions if they are not in agreement with the decisions. No person will be discharged before appropriate residential and day programs are available. Additional reviews are required for persons with overriding health care needs or persons who may cause injury to self or others.

An organized means for providing spiritual care services will be established for persons served in both SOCS and private programs.

Each community where there is a RTC has a community group to work with and advise the Department of Human Services and county agencies on issues relating to SOCS and other RTC services. Parent representatives are included in each community group. Additional advice is sought from the Department's advisory committee on mental retardation.

DETAILS OF 1989 REGIONAL TREATMENT CENTER LEGISLATION

The following pages contain the details of 1989 legislation relating to Regional Treatment Centers (RTCs). The legislation is lengthy, but to ensure complete information is available, details are included on all aspects of the legislation.

POLICY STATEMENT

"The legislature finds that it is beneficial to encourage the placement of persons requiring residential, health care, and treatment services in community-based facilities and in the regional treatment centers. It is the policy of the state to:

- (1) carry out measures that encourage the delivery of these services in a manner that ensures fair and equitable arrangements to protect the interests of the affected residents, family members, employees, providers, and communities; and
- (2) provide adequate staff and funding at regional treatment centers and all state facilities to ensure that existing programs and new • programs that may be developed meet all licensing and certification standards and contemporary standards of care."

REGIONAL ADMINISTRATIVE STRUCTURE

The administrative structure of the state operated system, which includes both RTC and community services, must be regional in character. The administrative and professional staffs of the RTC must be based on campus. Community-based facilities and services must be located and operated so they facilitate the delivery of professional and administrative staff services from the RTC campus. The staff may deliver services that they deliver on campus throughout the catchments area.

PLANNED CHANGES PUBLICIZED

The Department must publicize the planned changes to the programs it operates. When new services are developed that require the person to move, the Department will provide the following information:

- (1) the names and telephone numbers of the state and county contact persons;
- (2) the types of services to be developed;
- (3) how the individual planning process works, including how alternative placements will be determined and how family members can be involved;
- (4) the process to be followed when a parent, other family member or guardian disagrees with the proposed services; and
- (5) a list of additional resources such as advocates, local volunteer coordinators, and family groups.

At least one staff person in each facility must be available to provide information about community placements, the opportunity for family members and guardians to participate in program planning, and family support groups.

TRAINING AVAILABLE TO COMMUNITY PROGRAMS

In conjunction With the discharge of persons from RTCs and their admission to state operated and privately operated community-based services, the Department may provide technical training assistance to the community-based programs. The Department may accept money for the reasonable costs of training.

RTC SERVICES CONTINUED ON CAMPUS

The Department will continue to provide services to some persons with mental retardation on existing RTC campuses. Physical facilities will be funded as necessary to provide appropriate programs. The RTC services will be restructured to include limited specialized residential care on campus, training and technical services to community programs, respite care and crisis service. By January, 1991, the Department will report to the legislature a plan to provide continued regional treatment center capacity at the RTCs as follows:

RTC	Capacity by 1998
Brainerd	80
Cambridge	12
Faribault	110
Fergus Falls	60
Moose Lake	12
St. Peter	35
Willmar	25
Metro area (crises beds)	16 or fewer
TOTAL	350

	Capacity by 1999
Brainerd	57
Cambridge	12
Faribault	80
Fergus Falls	35
Moose Lake	12
St. Peter	30
Willmar	12
Metro area (crises beds)	16 or fewer
TOTAL	254

The Department may provide technical assistance to community providers in handling behavior problems for people served in public or private programs.

Respite care may be provided in a RTC when space is available if payment for 20 percent of the RTC per diem is guaranteed by the

person, the person's family or legal representative, or a source other than a direct state appropriation to the RTC and the provision of respite care to the person meets the facility's admission criteria and licensing standards. The parent or guardian must consent to admission and sign a waiver of liability. Respite care is limited to 30 days within a calendar year. No preadmission screening process is required for a respite care stay.

Crisis services designed to prevent or resolve situations that could lead to a change in community placement will be developed at all RTCs that serve persons with developmental disabilities. In addition, crisis capacity may be developed to serve 16 persons in the Twin Cities metropolitan area. Technical assistance and consultation on crises services must also be available in each region to providers and counties.

STATE OPERATED COMMUNITY-BASED SERVICES

In addition to the changes for the RTCs, plans will be developed to implement state operated community-based services (SOCS) over the next ten years. (SOCS include community group homes, foster care, supportive living services, day training and habilitation programs, and respite care arrangements.) At least part of the development will be for the capacity to provide community services to 570 person with mental retardation in 95 residential SOCS, in conjunction with appropriate day training and habilitation services.

In the first phase of this development, the Department plans to establish the following programs for RTC residents by June 30, 1991:

Brainerd	2 residential programs	2 day programs
Cambridge	4 residential programs	2 day programs
Faribault	10 residential programs	6 day programs
Fergus Falls	2 residential programs	1 day program
Moose Lake	4 residential programs	2 day programs
Willmar	2 residential programs	1 day program

The Department will evaluate the progress of the development and assess the quality of community based services before proceeding with further development. A report will be made to the legislature on the results of the evaluation by January, 1991, and again in January, 1993.

In determining the location of the SOCS, the needs of the individual client shall be paramount. The Department shall also take into account:

- (1) the personal preferences of the persons being served and their families;
- (2) location of the support services established by the individual service plans of the persons being served;
- (3) the appropriate grouping of the persons served;
- (4) the availability of qualified staff;

- (5) the need for state operated community-based services in the geographical region of the state; and
- (6) a reasonable commuting distance from a regional treatment center or the residences of the program staff.

Each program must be developed in accordance with a proposal approved by the commissioner. The Department may build, purchase, or lease suitable buildings for SOCS. Employees of the programs must be state employees. The programs must be necessary to serve the needs of persons with mental retardation who are seriously behaviorally disordered or who are seriously physically or sensorially impaired. The main focus of the residential programs will be to serve persons from the RTCs. However, both residential and day programs may also serve persons currently living in the community.

Each program site shall meet all applicable rules. An exception is that state operated day training and habilitation programs may serve persons from state operated residential programs. By July 1, 2000, however, the state must assure that it does not have a financial interest in a day program which serves persons from a state operated residential facility. Planning for this change must begin no later than 1994, and must involve family members, counties, advocates, employee representatives, and other interested parties. SOCS meeting the definition of Intermediate Care Facility for Persons with Mental Retardation or day training and habilitation programs must be reimbursed consistent with the established rate setting procedures.

PRIVATELY OPERATED SERVICES

Privately operated programs will be developed concurrently with the RTC changes and SOCS development. The legislation specifically states that the Department may approve newly constructed or newly established privately or publicly operated community ICF/MR programs for four, five or six persons. No more than 40% of the program's capacity may be used to serve persons being discharged from RTCs.

COMMUNITY GROUPS/ADVISORY GROUPS

Each community where there is a regional treatment center shall establish a group to work with and advise the Department and the counties to:

- (1) ensure community input in the development of community services for persons with developmental disabilities;
- (2) assure consideration of family concern about choice of service settings;
- (3) assist counties in recruiting new providers, capitalizing, and setting new day services and residential programs;
- (4) work with the surrounding counties to coordinate development of services;
- (5) facilitate community education concerning services;
- (6) assist in recruiting potential supported employment

opportunities;

(7) assist in developing shared services agreement among providers of service;

(8) coordinate with the development of state operated services; and

(9) seek to resolve local transportation issues for people with developmental disabilities.

Funds appropriated to the Department will be distributed to the communities to help defray the expenses of the community groups.

The Department also may request advice from the advisory task force for services to persons with mental retardation on implementing a comprehensive plan of services necessary to provide for the transition of persons from the RTCs to community-based programs. The task force consists of persons who are providers or consumers of services, or who are interested citizens.

SCREENING TEAMS/DISCHARGE PLANNING

Screening teams, established by the county agencies, will continue to evaluate the need for services for persons with mental retardation. In addition to the previous screening team requirements, the following conditions apply to the discharge of persons with mental retardation from an RTC:

(1) for a person under public guardianship, at least two weeks prior to the screening meeting, the case manager must notify parents, near relatives, and the ombudsman and invite them to attend the meeting. The notice to parents and near relatives must include information on assistance to persons interested in assuming private guardianship, the rights of parents and near relatives to object to a proposed discharge, and advocacy services.

(2) Prior to discharge, a screening must be conducted. Parents and near relatives shall be encouraged to participate. Their opinions shall be considered in the screening team's recommendations. The team shall determine if the services outlined in its plan are available in the community before making a discharge. The case manager shall provide a copy of the plan to the person, legal representative, parents, near relatives, the ombudsman, and the protection and advocacy system at least 30 days prior to the date the proposed discharge is to occur. The information provided to parents and near relatives must include notice of the rights of parents and near relatives to object to a proposed discharge. The case manager and a staff person from the RTC must conduct a monitoring visit within 90 days of discharge and provide an evaluation within 15 days of the visit to each of the people required to receive a copy of the screening team's plan.

(3) The concurrence of a majority of the screening team members is required before a discharge or transfer from a RTC can be approved. The team must determine that the services

outlined in the discharge plan are available and accessible in the community before the person is discharged. The recommendation of the team cannot be changed except by subsequent action of the team. The team's decision is binding on the county and the commissioner. If the commissioner or the county determines that the decision of the screening team is not in the best interest of the person, the commissioner or the county may seek judicial review of the team's recommendation. A person or legal representative may formally appeal the team decision. (Minnesota Statutes, section 256.045)

(4) For persons who have overriding health care needs or behaviors that cause injury to self or others, or cause damage to property that is an immediate threat to the physical safety of the person or others, the following additional conditions must be met:

For a person with overriding health care needs, either a registered nurse or a licensed physician shall review the proposed community services to assure that the medical needs of the person have been planned for adequately.

For a person with behaviors that cause injury to self or others, or cause damage to property that is an immediate threat to the physical safety of the person or others, a qualified mental retardation professional experienced in behavior management techniques must review the proposed services to assure the person's needs have been planned for adequately.

(5) A person may not be discharged from a RTC before an appropriate community placement is available.

(6) A person may not be discharged to a community ICF/MR facility with a licensed capacity of more than 15 beds. Effective July 1, 1993, a person cannot be discharged to a facility with a capacity of more than ten beds.

(7) If the person, legal representative, parent, or near relative of the person proposed to be discharged from a RTC objects to the discharge, the individual who objects may request an administrative review and may request reimbursement

of costs. (Minnesota Statutes, section 256.045) The person must not be transferred from a RTC while a review or appeal is pending. Within 30 days of the request for a review, the local county agency shall conduct a conciliation conference and inform the individual who requested the review in the writing of the action the county agency plans to take. If the

individual who objected to the discharge is not satisfied with the results of the conciliation conference, a request for a hearing before a state human services referee may be submitted. The commissioner's decision based on the hearing may be appealed to district court within 30 days of the

commissioner's order. For a person under public guardianship, the ombudsman may also object to the proposed discharge by requesting a review or hearing or by appealing to district court. The person must not be transferred from a RTC while a conciliation conference of appeal of the discharge is pending.

(8) The screening team must evaluate the availability, location and quality of the services needed for a person, including the impact of placement alternatives on the person's ability to maintain or improve existing patterns of contact and involvement with parents and other family members.

An appropriation will be made available to counties for case management services for persons with mental retardation or related conditions based on a formula established by the legislature.

SPIRITUAL CARE SERVICES

An organized means for providing spiritual care services may be established as part of the comprehensive services for persons served by state operated residential facilities and for persons discharged from RTCs to private facilities.

STUDIES ON DISCHARGES AND GUARDIANSHIP

The Department will contract for a study of the progress of selected persons who have been discharged from RTCs since 1985 and make a report to the legislature. The study must be supervised and directed by the Department.

The Department will conduct a study to determine the number of persons transferred from public to private guardianship, and the increased involvement of parents or near relatives in screening team activities. The results of the study will be reported to the legislature.